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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,866	09/12/2000	Scott J. Jones	GOLDENH.001C1	2541

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EXAMINER

KOPPIKAR, VIVEK D

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/659,866

Applicant(s)

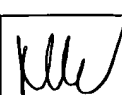
JONES ET AL.

Examiner

Vivek D Koppikar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Application

1. This communication is in response to the amendment and response filed by the applicants on August 8, 2003. Claims 2-19 are pending and have been examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7, 12, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims state that the transportation guidelines are the Consolidated Budget Reconciliation Act or the Omnibus Budget Reconciliation Act. However, acts or laws are always subject to amendments and/or repels and this fact renders these claims indefinite. The examiner recommends canceling these claims or amending them so they do not refer to indefinite criteria or limitations.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Amended Claim 2 and Claim 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Aeromed (“www.aeromed-software.com,” February 5, 1998).

These claims are rejected as set forth in the Office Action dated May 7, 2003.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-5, 10, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nathanson et al. (5,122,959) in view of Schriewer (Schriewer, Scott, "Airborne Ambulance Saves Precious Time," Tulsa World, May 22, 1996, pages 1-2).

These claims are rejected as set forth in the Office Action dated May 7, 2003.

8. Claims 6-7, 11-12, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nathanson et al. (5,122,959) and Schriewer (Schriewer, Scott, "Airborne Ambulance Saves Precious Time," Tulsa World, May 22, 1996, pages 1-2) as applied to claim 5 above and further in view of Hudson (Hudson, Terese, "Attorneys Fear Patient Transfer Claims in Malpractice Cases," Hospitals, April 5, 1991, volume 65, issue 7, pages 44-48).

These claims are rejected as set forth in the Office Action dated May 7, 2003.

9. Claims 8, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nathanson et al. (5,122,959) and Schriewer (Schriewer, Scott, "Airborne Ambulance Saves Precious Time," Tulsa World, May 22, 1996, pages 1-2) as applied to claim 2 above and further in view of Matsumoto et al. (5,974,355).

These claims are rejected as set forth in the Office Action dated May 7, 2003.

10. Claims 9, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nathanson et al. (5,122,959) and Schriewer (Schriewer, Scott, "Airborne Ambulance Saves

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Precious Time,” Tulsa World, May 22, 1996, pages 1-2) as applied to claim 2 above and further in view of Yee et al. (6,044,323).

These claims are rejected as set forth in the Office Action dated May 7, 2003.

Response to Arguments

11. Applicant's arguments filed August 8, 2003 have been fully considered but they are not persuasive.

The arguments will be addressed in sequential order as they were set forth in the response section dated August 8, 2003.

A) Arguments regarding the 35 USC 102 rejection

Applicant argues that the Aeromed reference is not valid because it has not undergone examination at the USPTO. To respond to this argument, the examiner contends that for a disclosure to be used as prior art it is immaterial as to whether the reference is valid or non-valid as far as novelty is concerned. As long as the reference discloses the claimed invention it can be used in a 35 USC 102 rejection.

Applicant also argues that the amount of technical detail in the Aeromed reference is not as much as in the instant application. However, the fact is that Aeromed discloses the invention as defined by the claims and this is all that matters. The specification are not the metes and bounds of the invention.

Applicant also argues that Aeromed does not disclose the feature wherein “a computerized system comprising instructions for determining whether the actual flight path varies from the calculated flight path.” However, the examiner contends that the Aeromed reference teaches a feature which produces flight plans and also teaches features that calculate

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navigation for the entire flight plan and displays nearest aircraft to the scene. The examiner takes the position that from these three pieces of information (flight plans, navigation path and nearest aircraft to the scene-(in order to determine the nearest aircraft to the scene the system in Aeromed must determine the actual location of the aircraft)) the deviation from the calculated flight plan can be determined in Aeromed, it is an inherent feature.

Aeromed also teaches “how to dispatch an aircraft” because it teaches dispatching the aircraft based on information gathered by the system (Aeromed; Page 4, paragraph 1). Even though more detail is not provided the examiner would like to point out that the disclosure of Aeromed still meets the limitations of the claims.

B) Arguments regarding the 35 USC 103 rejections

Applicants argue that Nathanson does not disclose “instructions for determining whether the actual flight path varies from the calculated flight path.” However the examiner contends that the system of Nathanson calculates parameters such as the estimated time of pickup and departure which necessarily reflect the actual flight path. Moreover, the system in Nathanson teaches a minimum path algorithm. The examiner contends that from these pieces of information the deviation of the actual flight path from the calculate flight path (minimum path algorithm) can be determined.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

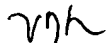
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Vivek Koppikar** whose telephone number is **(703) 305-5356**. The examiner can normally be reached on Monday-Friday from 8 AM to 5 PM, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned are (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Vivek Koppikar

9/16/04


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